

NEWRY PLANNING BOARD
MINUTES OF BOARD MEETING
Wednesday, February 18, 2026
Raymond C. Foster Municipal Building

Full discussion on the topics below is available on audio recording at the Newry Town Office.

Members Present: Edward (Ted) Baker, Board Chair; Heidi Marotta, Board Vice Chair; Cindi Wight, Board Secretary; TBD, Alternate

Staff Present: Joelle Corey, Code Enforcement Officer; Becky Bean, Recording Secretary

Members & Staff Absent: Meredith Harrop, Alternate

Public Attendees: Pat Roma, Joyce Roma

Call to Order: Chairman, Ted Baker, called the meeting to order at 6:00 PM and proceeded with his opening statements.

Current Attendance/Quorum: The Chair took attendance and confirmed the presence of a quorum.

Voting Eligibility: With no recent absences, all full Board members are eligible to vote.

Minutes of Prior Meetings: The Board reviewed the February 4, 2026, meeting's minutes. **Heidi moved to approve the minutes as written. Cindi seconded. With no discussion, the motion passed with all voting in favor.**

Correspondence Received:

- a) Subsurface Wastewater Disposal System Application dated 5/12/1998
- b) Memo from Ted Baker to Members of the Planning Board dated 2/18/2026; subject: Lot Splits to Existing Subdivisions. Ted explained each paragraph of the memorandum. This memorandum will be attached to tonight's minutes.
- c) Subsurface Wastewater Disposal System Application dated 8/30/2013

Business

A. Applications:

- a) **UNFINISHED - Amendment to Barker Mountain Subdivision; Lot #3 lot split; Patrick & Joyce Roma, applicant; Application # 26-290:** The Chair recapped what was covered at the Board's previous meeting. Joelle confirmed that she has collected the application fee of \$200 as well as the additional fee of \$195.50 for public notice posted twice in the local newspaper. Check # 2755 from the applicant totaled \$396.50.

The Board reviewed and discussed Form 10.1. for completeness. **Cindi moved that Form 10.1 is complete with Heidi seconding. The motion passed unanimously.**

The Board reviewed and discussed Form 10.2. for completeness. Discussion ensued regarding the list of abutters along with the driveway entrance and the CMP easement. The CEO confirmed that the Subsurface Wastewater Disposal Application dated 8/30/2013 shows the test pit on the proper lot – Lot 3. Joelle noted that the Subsurface Wastewater Disposal Application dated 5/12/1998 shows the test pit on the wrong lot (Lot 3A). Following discussion, **Ted moved that with the contingent of how the Board handles the waiver request for Performance Guarantees [Standards], the Board finds Form 10.2 complete; however, should the Board not grant the waiver for Performance Guarantees [Standards], then a description of the fire protection proposed would need to be added. Heidi seconded. The motion passed unanimously.**

The CEO confirmed the accuracy of the abutter list and certified mail receipts from the abutter notifications.

The Board reviewed and discussed Form 10.3. for completeness. Discussion ensued regarding the lack of a test pit being shown on the plan as well as the lack of contour lines, and the fact that the plan was given to the Board for review at tonight's meeting; not 10 days in advance. Using the large screen in the meeting room, Joelle showed

the topographical map for the site in question; however, the imagery was not clear. Following discussion, **Cindi moved that Form 10.3 is complete; Ted seconded. The motion passed unanimously with no further discussion.**

The Board reviewed and discussed Form 10.4. for completeness. The Chair noted that the applicant has submitted waiver requests, which the Board will consider once the application is found complete. He also spoke of the CMP easement that is shown on the plan. **Heidi moved that Form 10.4 is complete. Cindi seconded, and the motion passed unanimously with no further discussion.**

Ted moved that having found that Forms 10.1, 10.2 with condition, 10.3 and 10.4 have been approved by the Board; the application with the condition of Form 10.2 item # 20 be satisfied once the Board reviews the waivers, the application complete. Cindi seconded, and the motion passed unanimously.

The Chair recessed the Board's regular meeting at 7:08 to begin the Public Hearing.

Upon the adjournment of the Public Hearing, the Chair reopened the regular meeting at 7:13pm and noted that the Public Hearing was required because this proposed amendment is in a major subdivision.

Ted moved that a site visit need not be held; Cindi seconded, and the motion passed unanimously.

A Public Hearing was held as required during tonight's meeting – Feb 18, 2026.

The applicant is requesting waivers for Performance Standards. The Chair noted that per Section 22.B. of the UDRO, the Planning Board has the authority to waive General Performance Standards. The Board and the CEO, who is also the Assistant Fire Chief for Newry, discussed Section 13 of the UDRO, General Performance Standards, specifically subsection AC – Life Safety and Fire Suppression. Discussion ensued regarding any dwelling units on Lot 3 needing to be sprinkled.

Following discussions, Ted moved to waive Section 13 with the exception of Section 13.AC, Life Safety and Fire Suppression, as it applies to Lot 3. Cindi seconded. The motion passed unanimously with no further discussion.

The Chair noted that the applicant is not proposing any required improvements. Therefore, the value of required improvement is \$0.00, and the Performance Guarantee would be \$0.00.

Ted moved that as a condition of approval to Application 26-290, all dwelling units on Map R12 Lot 010-003, also referred to as Lot 3, must meet the Life Safety and Fire Suppression Standards, Unified Development Review Ordinance, Section 13.AC. All dwelling units on Map R12 Lot 010-003A, also referred to as Lot 3A, need not comply with this condition. Heidi seconded. With no further discussion, the motion passed unanimously.

The Board proceeded to review the Criteria for Approval on pages 21-24 of the UDRO.

The Chair noted that of the 21 Criteria for Approval, the following Criteria for Approval apply to this application:

- A. Pollution
- H. Sufficient Water
- C. Traffic
- D. Sewage Disposal
- B. Erosion
- U. Conformity with Local Ordinances

The Chair noted that the remaining Criteria for Approval are not applicable because they apply to the subdivision as a whole as opposed to just the lot split that is being proposed. The Criteria that do not apply are:

- E. Municipal Solid Waste Disposal
- F. Aesthetic, Cultural, and Natural Values
- G. Financial and Technical Capacity
- I. Public Water Supply
- J. Surface Waters
- K. Ground Water
- L. Flood Areas
- M. Freshwater Wetlands
- N. River, Stream, or Brook
- O. Storm Water
- P. Spaghetti-Lots Prohibited
- Q. Municipal Services
- R. Lake Phosphorus Concentration
- S. Impact on Adjoining Municipality
- T. Lands Subject to Liquidation Harvesting

The Chair asked the Board if they found any issues with this application regarding Pollution, Sufficient Water, Traffic & Road Access, Sewage Disposal, Erosion & Sedimentation, Conformity with Local Ordinances; the Board members did not have any issues with the application in terms of these Criteria.

Ted moved that the Planning Board approve with condition the Application # 26-290, Amendment to Barker Mountain Village Subdivision, specifically to divide Lot 3 into two separate parcels identified as Map R12 Lot 010-003, also known as Lot 3, and Map R12 Lot 010-003A, also known as Lot 3A, based on the following:

Condition of Approval: All dwelling units on Map R12 Lot 010-003 must meet the Life Safety and Fire Suppression standards, Unified Development Review Ordinance (UDRO) Section 13.AC. All dwelling units on Map R12 Lot 010-003A need not comply with this condition.

Ted put forth the following Findings of Fact and Conclusions of Law pursuant to 30-A M.R.S. section 4404 and section 4407 and UDRO section 5:

1. **Pollution & Water Quality** – the Board finds that the split of the lot will not result in undue water or air pollution. Specifically, both resulting lots have sufficient area for subsurface wastewater disposal under the UDRO standards.
2. **Sufficient Water** – the applicant has demonstrated that both the northern and southern parcels have access to sufficient water for the reasonably foreseeable needs of the subdivision.
3. **Traffic & Road Access** – The Board finds that the split will not cause unreasonable highway congestion. While the road is now a Town Road, the proposed driveways for each new lot meet current sight-distant and safety standards as required by the UDRO.
4. **Sewage Disposal** – The applicant has provided form HHE-200 forms and soil tests proving that Lot 3 can support a subsurface wastewater disposal system in compliance with State and local rules, and that Lot 3A has an existing dwelling unit, and therefore, is not applicable.
5. **Erosion & Sedimentation** – The proposed amendment does not require additional infrastructure. Any future construction on the two new lots shall follow the erosion control standards currently in effect.
6. **Conformity with Local Ordinances** – Pursuant to 1 M.R.S. Section 302, the Board has reviewed the application against the UDRO. The Board finds that both resulting lots meet the current minimum lot size of one acre and the minimum road frontage of 100 feet.
7. **Impact on Existing Subdivision** - The Board finds that the splitting this lot, which is already naturally divided by a town-accepted road, does not negatively impact the original 1987 subdivision layout or the density requirements of the current district.

Cindi seconded, and the motion passed with no discussion.

For the record, the Board has conditionally approved Application 26-290, Amendment to Barker Mountain Subdivision, specifically to divide Lot 3 into two separate parcels identified as Lot 3 and Lot 3A based on condition of approval of all dwelling units on Map R12 Lot 010-003 must meet the Life Safety and Fire Suppression standards in Unified Development Review Ordinance Section 13.AC, and all dwelling units on Map R12 Lot 010-003A need not comply to this condition, and the Findings of Fact and Conclusions of Law that the Board just covered.

The applicant was told that the Board will need plats showing the conditions of approval, and then they will sign two copies of the final plat – one for the Town’s file and to be recorded at the Registry of Deeds.

B. Other:

- a) Unfinished - A Proposal to adopt Rules of Procedure: This topic was tabled.
- b) Unfinished – UDRO 2026 review and preparation: Draft is currently undergoing legal review this is still being reviewed by the attorney.

Reports

- a) Comprehensive Plan Review Committee: Sunday River representation, Dana Bullen, President of Sunday River Skiway, attended the meeting and provided some skier count numbers, employment numbers (fulltime/parttime various positions), etc. that this committee had requested. Dana also discussed other issues. The ski area does not expect any appreciable increase in skier counts over the next 5-10 years.
- b) CEO: The Performance Guarantee for Timberline Village has been finalized and is being signed by the Town and the applicant. Forget project is frozen in place until springtime. The CEO has received a letter asking for an extension for the Locke Summit project.

Open Discussion

- a) Heidi will not be attending the March 4th meeting. Ted will not be here for the March 18th meeting and will be returning just in time for the April 1st meeting; he will not have time to prepare anything in advance for the April 1st meeting. Cindi will be away April 15th and will not be attending that meeting.

Ted noted legal review of the proposed UDRO should end by February, if so, the Planning Board will review the results of legal review on March 4. On March 18th, the Planning Board should review and approve the final draft of the UDRO – Ted will not be at this meeting. It will then be sent to the Select Board for their review and certification (April 7th) – once certified, the document can be printed. The Public Hearing will be held May 5th – simply presenting the proposed ordinances to the public; no revisions will result from the Public Hearing.

- b) Cindi asked about covenants being overridden by the State’s LD regarding ADUs. The CEO and Chair noted that State Law will not affect a subdivision’s covenants. Discussion ensued regarding the impact that the law will have on the Town’s density requirements, the driveway standard, etc.
- c) Discussion ensued regarding an applicant noting several items as non-applicable on the application forms. Ted spoke of his desire to revise the application following the Town meeting.
- d) Ted noted that he is still hoping to get Erica Bufkin in to train Board members on doing an application review.

Next Scheduled Meeting – Wednesday, March 4, 2026

Adjournment Heidi moved to adjourn; Ted seconded. Motion passed with all voting in favor. The meeting adjourned at 8:25 PM.

Newry Planning Board

To: Members of the Planning Board

From: Ted Baker, Planning Board Chair

Date: February 18, 2026

Subject: Lot Splits to Existing Subdivisions

1. Does the Planning Board need to consider each Criteria of Approval in UDRO §5, Criteria of Approval and 30-A M.R.S. §4404?

Yes. The Planning Board is legally required to ensure the amendment meets the criteria of UDRO §5 as well as 30-A M.R.S. §4404.

According to 30-A M.R.S. § 4407, which governs revisions to existing plats:

"In reviewing such an application [for a revision or amendment], the municipal reviewing authority shall make findings of fact establishing that the proposed revisions do or do not meet the criteria of section 4404."

While the Board must consider all criteria, the review is generally focused on the impact of the specific amendment (the lot split). For example, we will look at whether splitting the lot affects traffic safety, sewage disposal, or water runoff *for those specific new lots*, rather than re-adjudicating the entire existing subdivision, unless the changes create new non-conformities elsewhere.

2. Do current ordinance regulations apply, or those from 20 years ago or whenever the subdivision was approved?

The current ordinance regulations apply to the proposed amendment.

Under Maine law, an application is reviewed under the regulations in effect at the time the application is submitted. There is no "vested right" to use the regulations from 20 years ago for a new modification to the plan.

Statutory Citation:

The governing statute is 1 M.R.S. § 302, often referred to as the "vesting statute." It states:

"Actions and proceedings pending at the time of the passage, amendment or repeal of an Act or ordinance are not affected thereby."

3. How this applies to our reviews:

- "Pending Proceeding": The submission of the new application to amend a subdivision starts a new "proceeding."
- Current Law: Because this is a new request, it must comply with the ordinances currently in force (vested) at the time this specific application is filed.
- No Retroactivity: The original subdivision approval "vested" the original plan under the old rules only for that original plan. Once you ask to change that plan (amend it), the new component (the lot split) must meet today's standards (e.g., minimum lot size, road frontage, setbacks).

4. Summary for the Board:

- Authority: 30-A M.R.S. § 4407 requires findings of fact on § 4404 criteria for amendments.
- Applicable Law: 1 M.R.S. § 302 dictates that the ordinance in effect at the time of the amendment application governs the review.